

Owen County Fiscal Court
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OWEN COUNTY
GOVERNMENT

Casey Ellis
County Judge/Executive

Magistrates
Todd Spurgeon, District 1
Stuart Bowling, District 2
Wayne Harris, District 3
Chad Rose, District 4

**AN ORDINANCE RELATING TO THE OWEN COUNTY
ADMINISTRATIVE CODE**

ORDINANCE # 222

**AN ORDINANCE AMENDING SECTION 1.10 OF ORDINANCE #219 THE
OWEN COUNTY ADMINISTRATIVE CODE**

**“BE IT ORDAINED BY THE FISCAL COURT OF OWEN COUNTY,
COMMONWEALTH OF KENTUCKY”**

The attached pages reflect amendments to the Owen County Administrative Code (OCAC), Ordinance 219, adopted on December 11, 2018

OAC-Section 1.10 Procurement and Surplus was extracted and revised to reflect updated statutory.

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1 1.10 Procurement and Surplus

2 1. Authorization of Government Contracts:

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4 Every contract, change or amendment thereto, shall be authorized or approved by the OCFC
5 before being executed by the Judge/Executive, except for small purchases not requiring
6 competitive bidding or a Request for Proposal (RFP). The County Attorney shall review every
7 contract of OCG, as to form and legality, except for contracts for small purchases.

8 For the purposes of this Section 1.10, Procurement" means the purchasing, buying,
9 renting, leasing, or otherwise obtaining of any supplies, services, or construction. It includes
10 all functions that pertain to the procurement of any supply, service, or construction item,
11 including description of requirements, selection and solicitation of sources, preparation and
12 award of contract, and all phases of contract administration.

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15 2. Selection of Vendors and Contractors:

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- 17 a. The agency, department or person requiring supplies, services or construction shall
- 18 submit to the Judge/Executive a request containing specifications and quantities
- 19 desired.
- 20 b. The Judge/Executive shall determine the need for each item requested, the
- 21 approximate cost and whether the expenditure is provided for in the budget.
- 22 c. Any expenditure or contract for materials, supplies (except perishable meat, fish, and
- 23 vegetables), equipment, or for the contractual services other than professional,
- 24 involving an expenditure of more than Thirty Thousand Dollars (\$30,000) shall be
- 25 subject to the Request for Proposal (RFP) procurement.
- 26 d. The Judge/Executive shall place an advertisement for submission of Request for
- 27 Proposals (RFP) when the purchase exceeds Thirty Thousand Dollars (\$30,000). The
- 28 RFP Shall be advertised within the OCG website and newspaper of the largest
- 29 circulation in the county, at least once; and not less than seven (7) days and not more
- 30 than twenty-one (21) days before RFP opening(s). The advertisement shall include the
- 31 time and place where RFP proposal may be obtained.
- 32 e. The Judge/Executive shall open all bids publicly at the time and place stated in the
- 33 advertisements and shall select the lowest and/or best bid by qualified bidder. If the
- 34 lowest bid is not selected, the reasons for the selection shall be stated in writing.
- 35 f. The OCFC may opt to allow bidders to submit their bids electronically if specified in
- 36 the advertisement. The e-mail subject line shall acknowledge that the e-mail contains
- 37 a sealed bid responsive to the particular advertisement. The e-mail shall be opened
- 38 in accordance with Section 1.10 (2)(e). Any bid submitted via e-mail that does not
- 39 include in the subject line information sufficient for the recipient to know the e-mail
- 40 contains a sealed bid shall not be considered by the County.
- 41 g. The Judge/Executive shall submit the bid selected to OCFC for approval with
- 42 justification.
- 43 h. The Judge/Executive shall sign all contracts, when ratified by the OCFC.

- 44 i. The OCFC has and does adopt the local government portion of the Model
45 Procurement Code (KMPC) as Owen County's procurement method. The KMPC is
46 codified as KRS 45A.343-45A.460.
- 47 j. The Owen OCFC has also adopted the guidelines for procurement involving
48 USDOT/Federal transit Administration projects including 49 CFR part 18-Uniform
49 Administration requirements for Grants and Cooperative Agreement to State and
50 Local Governments and to FTA Circular 4220. F-third Party Contracting Guidelines for
51 Federal Transit projects. (Said policy adopted by attached order of 10- 9-2012)

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53 *3. Procedures for Determination of Qualification of Bidders:*

- 54
- 55 a. The County Judge may require all bidders to provide sufficient information to
56 determine their qualifications to provide the services or product that is the subject of
57 the competitive bidding.
- 58 b. Contractors who have demonstrated, by past performance, the ability to perform
59 satisfactory in accordance with the contracts on a timely basis and have shown a
60 sound financial structure may be determined to be qualified and responsible bidders
61 without additional documentation otherwise required of other potential bidders

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63 *4. Procedures Prerequisite to Use of Negotiated Process:*

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- 65 a. The negotiated process may be used instead of advertisement for bids if the amount
66 exceeds \$30,000 in the following circumstances:
67 i. An emergency exists.
68 ii. Bids exceed available funds.
69 iii. Professional Service contracts.
- 70 b. Before an emergency is declared the County Judge shall determine whether or not
71 the delay in obtaining bids will result in danger to health, safety or property.
- 72 c. The Judge/Executive shall certify the existence of any emergency and file a copy of
73 such certificate with the chief financial officer of OCG (the Treasurer).
- 74 d. In the event all bids submitted are more than funds available, the Judge/Executive
75 shall prepare a written determination that there are no additional funds available as
76 to permit an award to the selected bidder and delay in advertising for additional bids
77 is not in the best interest OCG.
- 78 e. The OCFC shall approve all circumstances in which the Negotiation Process is used.

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80 *5. Procedures for Negotiated Process:*

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- 82 a. When the prerequisites have been met for use of the negotiated process, the
83 Judge/Executive shall proceed to negotiate with one or more suppliers to obtain the
84 most advantageous terms for OCG.
- 85 b. The Judge/Executive shall prepare a record of all negotiated contracts, showing the
86 items and quantities acquired, name of suppliers, cost and date of contract.

- 87 c. Professional services shall be negotiated with such persons as are properly licensed to
- 88 perform such services.
- 89 d. Where more than one (1) bid was received and all were more than the amount
- 90 available, the lowest three (3) bidders shall be notified that OCG desires to negotiate
- 91 a contract for a lesser amount based on revised quantities or specifications and fix a
- 92 time limit for submission of proposals.
- 93 e. The Judge/Executive shall examine the proposals received and shall negotiate with
- 94 the suppliers for the terms most advantageous to OCG.
- 95 f. The best negotiated proposal shall be submitted to the OCFC for approval and award.
- 96

97 *6. Small Purchase Procedures*

- 98 a. All expenditures of less than \$30,000 shall be considered a "small purchase", which
- 99 under ordinary circumstances should not be subject to competitive bidding so long as
- 100 said expenditure is provided for in the budget unless the OCFC shall direct otherwise.
- 101 b. The County Judge determines the need for any item requested and whether or not
- 102 the contract is for less than \$30,000 and the expenditure is provided for in the budget.
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104 *6. Hold Harmless Clause:*

- 105
- 106 a. All contracts executed on behalf of the OCG concerning the purchase of services or
- 107 products shall contain a "hold harmless clause", whereby the vendor, provider of
- 108 services, or seller agrees to hold the OCG harmless from any liability concerning the
- 109 use of their product or the receipt of their service.
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111 *7. Asset Control Management:*

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- 113 a. Please refer to the Capitalization & Asset Control Policy for specific policy &
- 114 procedures.
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116 *8. Disposition of County Surplus Property:*

117 OCG elects as an alternative procedure to KRS 45A.425 (Surplus or Excess Property) to

118 dispose of personal property pursuant to KRS 67.0802

119 a. Real Property

120 (1) In the event the County Judge determines that the County retains surplus real

121 property and that it will be in the best interest of the County to dispose of said real

122 property, the County Judge shall make a written statement:

- 123 (A) The real or personal property;
- 124 (B) Its intended use at the time of acquisition;
- 125 (C) The reasons why it is in the public interest to dispose of it; and.
- 126 (D) The method of disposition to be used

127 The property may be transferred via the following method(s):

- 128 (A) Transferred, with or without compensation, to another governmental agency;
- 129 (B) Sold at a public auction following publication of the auction in accordance with
- 130 KRS 424.130(1)(b);

- 131 (C) Sold by electronic auction following publication of the auction, including the
- 132 uniform resource link (URL) for the site of the electronic auction, in accordance
- 133 with KRS 424.130(1)(b);
- 134 (D) Sold by sealed bid in accordance with the procedure for sealed bids under
- 135 KRS 45A.365(3) and (4);
- 136 (E) Transferred, with or without compensation, for economic development
- 137 purposes, which shall include but not be limited to real property transfers for the
- 138 elimination of blight;
- 139 (F) Traded toward the acquisition of the same or similar type of property if the
- 140 value of the property the county is receiving in exchange equals or exceeds the
- 141 actual fair market value of the property traded as determined using an
- 142 independent appraisal;
- 143 (G) 1. Sold for its appraised fair market value or a greater amount if the
- 144 property is valued to five thousand (\$5000) or less in an independent appraisal
- 145 without using the procedure set out in paragraph (d) of this subsection;
- 146 2. Property sold under this paragraph shall not be sold to a county officer
- 147 or employee;
- 148 (H) Sold for scrap or disposed of as garbage, of which road millings and dirt may
- 149 be considered as such, in a manner consistent with the public interest if the
- 150 property has no value, or is of a nominal value as determined by an independent
- 151 appraisal; or
- 152 (I) Sold by the Finance and Administration Cabinet under an agreement with the
- 153 county.
- 154 2. The aforementioned statement shall be submitted to the OCFC for their
- 155 action;
- 156 3. If OCG receives no bids for the real or personal property, either at public or
- 157 electronic auction or by sealed bid, the property may be disposed of, consistent
- 158 with public interest, in any manner deemed appropriate by OCG. In those
- 159 instances, a written description of the property, the method of disposal, and the
- 160 amount of compensation, if any, shall be made.

161 b. Tangible Property

- 162 (1) The County office, agency, or person to which responsibility has been
- 163 assigned by the County Judge to use and take care of a particular tangible item or
- 164 items will notify the County Judge that a particular item is no longer needed or
- 165 serviceable. The County Judge shall inquire of other County offices to determine
- 166 if they have need of, or want to use, the item.
- 167 (2) If no use for the personal property can be found, the property shall be
- 168 disposed of in the same manner as Real Property except that no appraisal is required.

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